

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WESLIE MARTIN,

Petitioner,

Case No. 3:22-cv-00101-LRH-CLB

ORDER

V.

WILLIAM REUBART, et al.,

Respondents.

9 *Pro se* Petitioner Weslie Martin has filed a Petition for Writ of Habeas Corpus under 28
10 U.S.C. § 2254. (ECF No. 1-1 (“Petition”)). On March 25, 2022, the Court instructed Martin to
11 resolve the filing fee, and he timely complied. (ECF Nos. 3, 4.) As such, this matter comes before
12 the Court for an initial review under the Rules Governing Section 2254 Cases (“Habeas Rules”).
13 For the reasons discussed below, the Court directs the Petition to be filed and served upon the
14 respondents.

Martin challenges a conviction and sentence imposed by the Eighth Judicial District Court for Clark County (“state court”). *State of Nevada v. Weslie Martin*, Case No. C-18-334047-1.¹ On November 1, 2019, the state court entered a judgment of conviction, pursuant to a jury verdict, of two counts of grand larceny, grand larceny of a firearm, attempted burglary, two counts of burglary, robbery with the use of a deadly weapon, cruelty to animals, and ownership or possession of a firearm by a prohibited person. Martin appealed, and the Nevada Supreme Court affirmed on

²² ¹ The Court takes judicial notice of the online docket records of the Eighth Judicial District Court
and Nevada appellate courts. The docket records may be accessed by the public online at:
<https://www.clarkcountycourts.us/Anonymous/default.aspx> and
²³ at: <http://caseinfo.nvsupremecourt.us/public/caseSearch.do>.

1 November 30, 2021. The Nevada Supreme Court denied Martin's petitions for rehearing and for
2 en banc reconsideration on January 5, 2022, and February 2, 2022, respectively. On May 22, 2020,
3 Martin filed a state petition for writ of habeas corpus. *Weslie Martin v. Warden William Guittere*,
4 Case No. A-20-815394-W. The state court denied post-conviction relief on March 14, 2022. A
5 review of the Nevada Supreme Court's electronic database reveals that Martin has not filed a post-
6 conviction appeal.

7 Habeas Rule 4 requires the assigned judge to examine the habeas petition and order a
8 response unless it "plainly appears" that the petition is not entitled to relief. *See Valdez v.*
9 *Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019). This rule allows courts to screen and dismiss
10 petitions that are patently frivolous, vague, conclusory, palpably incredible, false, or plagued by
11 procedural defects. *Boyd v. Thompson*, 147 F.3d 1124, 1128 (9th Cir. 1998); *Hendricks v. Vasquez*,
12 908 F.2d 490, 491 (9th Cir. 1990) (collecting cases).

13 A petition for federal habeas corpus shall include all claims for relief of which petitioner
14 is aware. If Martin fails to include such a claim in his petition, he may be forever barred from
15 seeking federal habeas relief upon that claim. *See 28 U.S.C. § 2244(b)*. If Martin is aware of any
16 claim not included in his Petition, he should notify the court of that as soon as possible, perhaps
17 by means of a motion to amend his Petition to add the claim.

18 IT IS THEREFORE ORDERED that the Clerk of the Court shall file the Petition (ECF No.
19 1-1). The Clerk shall also electronically serve the Petition and a copy of this order on the
20 respondents.

21 IT IS FURTHER ORDERED that the Clerk of the Court is directed to add Aaron Ford,
22 Attorney General of the State of Nevada, as counsel for respondents and to provide respondents'
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1 counsel an electronic copy of all items previously filed in this case by regenerating the Notice of
2 Electronic Filing.

3 IT IS FURTHER ORDERED that respondents shall have 60 days from the date of entry of
4 this order to appear in this action, and to answer or otherwise respond to the Petition.

5 IT IS FURTHER ORDERED that if respondents file an answer, Martin shall have 60 days
6 from the date on which the answer is served on him to file and serve a reply. If respondents file a
7 motion to dismiss, Martin shall have 60 days from the date on which the motion is served on him
8 to file and serve a response to the motion to dismiss, and respondents shall, thereafter, have 30
9 days to file a reply in support of the motion.

10 IT IS FURTHER ORDERED that any state court record exhibits filed herein by either
11 Martin or respondents shall be filed with a separate index of exhibits identifying the exhibits by
12 number. The CM/ECF attachments that are filed further shall be identified by the number or
13 numbers of the exhibits in the attachment.

14 DATED THIS 26th day of April, 2022.

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17 LARRY R. HICKS
18 UNITED STATES DISTRICT JUDGE
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